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Harry S. Margolis  
*Margolis & Cohen, LLP*

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***When Boomers Need Care Will It Be There? The Viability of Nursing Homes & Alternatives in the 21st Century***

**Introduction—Senior Demographics: A Look Behind the Numbers**

Harry S. Margolis\*

**I. INTRODUCTION**

We keep hearing that the over age sixty-five population will double from thirty-two million today to sixty-five million by 2030,\*\* and that this will bankrupt the Social Security and Medicare systems, not to speak of what it will do to long-term care costs. But, in fact, these numbers tell us very little about what will happen during the next three decades.

Any discussion of the future long-term care and legal needs of older Americans must consider the anticipated growth of this population. But that analysis cannot be limited to the population over age sixty-five—a group that can include two generations—or the year 2030—by which time most of those reading this introduction will no longer be practicing law.

Most people aged sixty-five to eighty-five do not need any long-term care. Many of those over age eighty-five do. Those in the second group may well be the parents of those in the first group. Their life experiences and the numbers are quite different.

With respect to the year 2030, three decades will pass between now and then. By then, almost all attorneys now practicing law will have retired. Of more interest to most current attorneys and students expecting to practice law is what effect changing demographics will have on the practice of law over that time. This introduction will focus on that question as it applies to the fields of elder law and estate and retirement planning.

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\* Harry S. Margolis is the managing partner of Margolis & Cohen, LLP, a six-lawyer firm in Boston, Massachusetts, that concentrates its practice in estate planning for the elderly and disabled. He is a Fellow of the National Academy of Elder Law Attorneys and on the adjunct faculty of Boston College Law School.

\*\* ROBERT B. FRIEDLAND & LAURA SUMMER, NATIONAL ACADEMY ON AN AGING SOCIETY, *DEMOGRAPHY IS NOT DESTINY 1* (1999). Throughout this piece I referred to statistics and figures taken from FRIEDLAND & SUMMER, *supra*.

## II. THE IMPACT OF INCREASED NUMBERS

Will the doubling of the senior population have a great impact on the nation and its resources? Of course, but what sort of impact depends on many factors. The U.S. population more than doubled over the past forty years. At the same time, the nation's income, adjusted for inflation, more than tripled. If the economy grows by three percent a year, government spending (assuming no changes in current law) as a percentage of gross domestic product would not change between now and 2030. However, if the economy only grew by an average of one percent per year, government spending would eat up almost twice as much of the economy thirty years from now. In short, the impact of a growing senior population depends in large part on the growth of the economy as a whole, not to mention other factors such as increasing immigration.

## III. A LOOK AT "SENIORS"

While Americans over age sixty-five are often lumped together as "seniors" or the "elderly," the reality is that those over age sixty-five encompass at least two separate generations. An eighty-five year-old can be the parent of a sixty-five year-old. And their abilities and need for assistance vary greatly depending on their age. While only one in ten of those aged sixty-five to seventy-four require any assistance with activities of daily living, fully forty-four percent of those over age eighty-five require some sort of assistance. Significantly, this means that more than half of those in the oldest age bracket require no assistance at all.

The difference in the need for assistance means that any examination of long-term care and legal needs over the next several decades must examine "seniors" as two separate groups. Those between ages sixty-five and eighty-four, and those eighty-five and above. While age is not an exact proxy for health and the need for care—someone under eighty-five can be ill and someone over ninety-five can be in good physical and mental health—it's a pretty good proxy.

The growth of the field of elder law has been driven in large part by the explosion in the number of Americans over age eighty-five. During the forty-eight years between 1950 and 1998, the number of Americans between age sixty-five and seventy-four more than doubled, growing by 116%. The number of those between age seventy-five and eighty-four grew by 259%. But the number of Americans over age eighty-five grew more than twice as fast, by 577%. Projections for the next thirty years reflect a more uniform growth rate, with the three age cohorts growing by 103%, 97% and 112%, respectively.

This reality—the growth of the older old—gets lost in data that lump all Americans over age sixty-five together. The number of seniors over age sixty-five as a percentage of the United States population is relatively even from 1990 to 2010. This masks an almost eighty percent growth in the number of Americans over

age eighty-five during these two decades. This is because the younger seniors during these two decades are a relatively small group, being those born during the Depression.

During the coming decade, the fastest growing group will be those aged fifty-five to sixty-four. From 2010 to 2020, this same group is again the fastest growing, but by then they'll be between ages sixty-five and seventy-four. This group reaches age seventy-five in 2020 and eighty-five in 2030, when the eight-five and over population really begins growing at a significant rate. In short, the need for long-term care will grow at a much slower rate during the next two to three decades, while the need for estate and retirement planning will begin taking off now as the older and more fortunate baby boomers begin contemplating retirement.

#### IV. FUTURE TRENDS IN THE NEED FOR LONG-TERM CARE

Over the next several years, the need for long-term care will continue to rise rapidly as it has over the past several decades, by one count increasing from seven million Americans in 1997 to nine million in 2005, a twenty-nine percent jump in eight years. Yet the same report only projects a ten percent increase over the subsequent thirteen years and a slightly slower rate of growth over the next twelve years leading to 2030. These projections reflect the demographic trends highlighted above: that the eighty-five and over population—those that most need long-term care—will continue to burgeon for another ten years, but that its growth will abruptly end around 2010, at the same time the first baby boomers begin reaching age sixty-five. For the following twenty years, as the baby boomers stampede into retirement, the number of Americans aged sixty-five to eighty-four will grow tremendously, but as we have seen few of this group require long-term care. Only in 2030, when the first baby boomers begin crossing the age eighty-five threshold will the need for long-term care again begin to grow at rapid rates (unless, of course, the baby boomers prove healthier than their parents and grandparents, or medical science keeps them active and vital longer).

None of this demographic information really tells us what the picture of long-term care will look like ten, twenty or forty years from now. Today's baby boomers may prove to be healthier than their parents or grandparents or be the beneficiaries of new medical discoveries. There may also be housing and care alternatives that enable tomorrow's seniors to avoid nursing home placement. This seems to be taking place already with the growth in assisted living facilities. The number of people in nursing homes grew by twenty-one percent in three and a half years during the 1970's, by fourteen percent over the eight years from 1977 to 1985, yet by only four percent during the following decade. The growth of the eighty-five and over population was relatively constant throughout this period.

Many elder law practitioners have observed an increased availability of nursing home beds that reflects the growth in alternatives. The combination of this trend

## *2000 / Senior Demographics: A Look Behind the Numbers*

with the slow growth of the eighty-five and over population between 2010 and 2030 means that the nation will not see another long-term care crisis until after that year. This has obvious public policy implications. It also means that the need for Medicaid planning, while not likely to disappear, will not grow as it has in the last decade. It will be replaced by a need for estate and retirement planning.